

REMARKS

Claims 1-8, 14-24 and 30-33 are pending in the application.

Claims 1-8, 14-24 and 30-33 have been rejected.

Claims 1, 14, 17 and 30 have been amended.

Claim 33 has been canceled.

Unless otherwise specified in the below discussion, Applicants have amended the above-referenced claims in order to provide clarity or to correct informalities in the claims. Applicants further submit that, unless discussed below, these amendments are not intended to narrow the scope of the claims. Applicants have also canceled a claim in order to clarify the issues for prosecution. By these amendments and cancellation, Applicants do not concede that the cited art is prior to any invention now or previously claimed. Applicants further reserve the right to pursue the original versions of the claims in the future, for example, in a continuing application.

Rejection of Claims Under 35 U.S.C. §103

Claims 1-8, 14-24 and 30-33 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 6,804,657 issued to Sultan et al. (“Sultan”). Applicants respectfully traverse this rejection.

In order for a claim to be rendered invalid under 35 U.S.C. §103, the subject matter of the claim as a whole would have to be obvious to a person of ordinary skill in the art at the time the invention was made. *See* 35 U.S.C. §103(a). This requires: (1) the reference(s) must teach or suggest all of the claim limitations; (2) there must be some

teaching, suggestion or motivation to combine references either in the references themselves or in the knowledge of the art; and (3) there must be a reasonable expectation of success. *See MPEP 2143; MPEP 2143.03; In re Rouffet*, 149 F.3d 1350, 1355-56 (Fed. Cir. 1998).

Independent Claims 1, 14, 17 and 30, as amended, each contain a limitation of substantially the following form: “identifying opportunity data and revenue data corresponding to members of the organization, wherein the members of the organization are associated with positions in a hierarchy structure of the organization.” *See, e.g.*, Claim 1 (amended). Applicants respectfully submit that the cited section of Sultan does not provide disclosure of this claim limitation. The Office Action cites to a portion of Sultan’s “Summary” section that discloses purportedly “accepting original pipeline sales information remotely entered by members of the sales force,” storing that pipeline sales information, and “tagging” or associating the pipeline sales information with the sales force member who entered it. *See* Office Action, p. 4 (citing Sultan 2:19-27). Sultan defines “pipeline sales information” as a “value of goods and/or services that the sales person believes he or she will sell to a given customer over a period of time.” The Office Action suggests that such pipeline sales information corresponds to the claimed “opportunity data.” *Id.*

Applicants respectfully submit that neither the cited text nor the definition of pipeline sales information discloses that Sultan’s “pipeline sales information” is based on revenue or is itself revenue, nor does the Office Action provide any implication of that. Further, Sultan discloses that the “original pipeline information” is purportedly increased or decreased based upon the “forecast sales information.” Sultan discusses the disclosed “forecast sales information” at length and only indicates that the “forecast sales

information” is related to “additional information” that “may affect the original pipelined information.” *See Sultan* 7:5-25. Thus, Sultan provides no enabling disclosure that the “pipeline sales information” or the basis of pipeline sale information is revenue. Therefore, Applicants submit that there is no disclosure in the cited section of Sultan that provides the claimed “identifying opportunity data and revenue data.”

Independent Claims 1, 14, 17 and 30, as amended, each contain a limitation of substantially the following form: “calculating forecast data corresponding to the members of the organization using the identified data corresponding to members of the organization.” *See, e.g.*, Claim 1 (amended). Applicants respectfully submit that the Office Action fails to establish that the cited section of Sultan discloses this claim limitation, since there is no disclosure of including revenue data in a calculation of forecast data. With regard to the “identifying” limitation (discussed above), the Office Action attempts to equate Sultan’s “forecast sales information” with the claimed “revenue data.” But with regard to the “calculating” limitation, the Office Action equates Sultan’s “forecast sales data” with the claimed “forecast data,” which the claims require to be calculated from the identified opportunity data and revenue data. By identifying both opportunity data and revenue data, the claims distinguish these data types and require both in the calculation of forecast data. By ignoring this requirement for revenue data in the calculation the Office Action is effectively eliminating the meaning of one of those claim elements. Such a result is impermissible because it vitiates, or eliminates, an element of the claim. *See Warner-Jenkinson Co. v. Hilton Davis Chem. Co.*, 520 U.S. 17, 39 n.8 (1997).

Independent Claims 1, 14, 17, and 30 each contain limitations of substantially the following form:

associating a state with the forecast, wherein the state comprises one of
a created forecast state,
an included forecast state, if the forecast is included in data of a
forecast of another,
a submitted forecast state, if the forecast is submitted by the first
member of the organization, and
an included-as-submitted forecast state, if the forecast is submitted by
the first member of the organization and included in data of a forecast
of another;
modifying states associated with each forecast data corresponding to
members of the organization to one of
the included forecast state, if the forecast data does not currently have
the submitted forecast state, and
the included-as-submitted forecast state, if the forecast data does
currently have the submitted forecast state.

See, e.g., Claim 1. Applicants respectfully submit that the cited sections of Sultan do not provide disclosure of these claim limitations.

As purported disclosure of these claim limitations, the Office Action cites to Sultan 2:24-47 as providing purported disclosure of “states.” The Office Action suggests that the disclosed “tagging” of stored forecast sales information to a member of a sales force having modified pipeline sales information corresponds to the claimed created forecast state. Applicants respectfully submit that the cited section of Sultan fails to provide a created forecast state associated with a forecast as claimed, but instead associates a purported state (a classification of “tagging” with which Applicants do not necessarily agree) with information that Sultan uses to purportedly generate a forecast, as discussed in the Office Action with regard to the “generating” limitation. *See Office Action, p.5.*

Furthermore, Applicants submit that merely associating a piece of data with a member of a sales force (“tagging”) does not necessarily mean a “created forecast state” is created, as claimed. As disclosed in the Application, a state is associated with the

generated forecast after it has been created so that a user may modify the forecast before the forecast is used in the generation of another forecast by another user. *See Application*, p.21. The cited section of Sultan provides no disclosure of such a capacity being associated with the disclosed “tagging.” Nor is it clear how the Office Action suggests that “tagging” information purportedly used to generate a forecast allows a user to modify a forecast itself, as claimed.

The Office Action takes Official Notice of states of data being “old and well known” in the art of databases. *See* Office Action, p.6. But “Official Notice without documentary evidence to support the Examiner’s conclusion is permissible only in some circumstances.” MPEP 2144.03. “It would not be appropriate to take Official Notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known.” *Id.* “It is never appropriate to rely solely upon ‘common knowledge’ in the art without evidentiary support in the record, as the principal evidence upon which a rejection was based.” *Id.* (emphasis added). Applicants respectfully submit that by taking Official Notice without providing any documentary evidence in support of that Notice, the Office Action has inappropriately relied upon purported “common knowledge” as the principal basis for rejecting the claims. Further, the Office Action fails to provide any indication that the states and reactions to those states claimed was “old and well-known” in the art. In light of the above reasoning related to the failure of the Office Action to establish that the states described in the claims and the use of those states, Applicants respectfully submit that “the Examiner must provide documentary evidence in the next Office Action if the rejection is to be maintained.” *Id.*

Each of the independent claims contains a limitation of substantially the following form: “enabling the first member to modify the forecast data corresponding to the members of the organization, if the forecast data does not have an associated included-as-submitted forecast state.” *See, e.g.*, Claim 1. Applicants submit that the Office Action fails to provide citation to any portion of Sultan purported to disclose this claim limitation. Instead, the Office Action relies upon an obviousness argument linked to the above-discussed Official Notice. As stated above, Applicants contest the appropriateness of the Official Notice, especially as it applies to the specific states and circumstances applied in the claims. Further, there is no evidence to support that it is “common in the art” to modify states in response to the claimed stimuli. The above-discussed “associating” limitation provides that a forecast has one of four specific states. The “enabling” limitation restricts modifying forecast data to situations where one specific state is not present. As discussed above, Sultan provides no disclosure of the claimed state information. Therefore, Sultan cannot disclose restricting enabling based on that state information, as claimed. And, in fact, as discussed above, Sultan provides no state-based restriction whatsoever on the disclosed modifying.

Claims 14 and 30 each also include substantially the following limitations:

determining an identity of a current forecast participant who is a member of the organization;

identifying subordinate members of the organization who are subordinate to the current forecast participant based on the hierarchy structure; and

presenting forecast data to the current forecast participant, wherein the forecast data specific to each of the one or more subordinate members is viewable by the current forecast participant.

See, e.g., Claim 14. The Office Action cites to three separate sections as purported disclosure of these limitations. Applicants respectfully submit that the cited sections merely discuss a defined hierarchical structure and defining a place for each member of

the sales force (Sultan 2:19-21), permission levels for members of the sales force (Sultan 5:13-31), and an example of pipeline sales information (Sultan 6:57-66). There is no discussion or disclosure of a “current forecast participant” in the cited sections, nor is there any disclosure of determining the identity of such a person. Further, there is no disclosure of identifying members of an organization who are subordinate to the current forecast participant, especially in light of the failure to disclose determining the identity of the current forecast participant is. Failing to determine both the current forecast participant and the members of the organization subordinate to the current forecast participant, the cited sections cannot be said to provide disclosure of the “presenting forecast data” limitation which requires both the identity of the current forecast participant and the subordinate members.

Applicants respectfully submit that the Office Action has not established the presence of all the limitations of the independent claims in Sultan. The burden is on the Examiner to support a case of obviousness, including whether the prior art references teach or suggest all of the claimed limitations. *See MPEP 706.02(j).* For these reasons, Applicants respectfully submit that the Office Action fails to present a *prima facie* case of obviousness of independent Claims 1, 14, 17 and 30, and all claims dependent upon them, and that they are in condition for allowance. Applicants therefore respectfully request the Examiner’s reconsideration and withdrawal of the rejections to those claims, and an indication of the allowability of same.

Applicants note that the above arguments are directed to the independent claims, which if agreed upon will render all presented claims allowable. In light of such a result, it is unnecessary to argue the independent allowability of the dependent claims, and thus no arguments are presently presented. By not providing such argument, Applicants in no

way waive their right to present such arguments in the future. This includes argument that any Official Notice to additional items found within the Office Action's discussion of the dependent claims is not properly made, among others.

CONCLUSION

In view of the amendments and remarks set forth herein, the application and the claims therein are believed to be in condition for allowance without any further examination and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned at 512-439-5090.

Respectfully submitted,

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